

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

AMANDA BUCHANAN and BRANDI
SANDERSON, on behalf of themselves and all
other Plaintiffs similarly situated known and
unknown

Plaintiffs,

v.

GOOD EATS RESTAURANT GROUP,
URBAN BURGER BAR LLC, SONO WOOD-
FIRED LLC, and JOHN D. MCLEAN,
individually

Defendants.

GOOD EATS RESTAURANT GROUP,
URBAN BURGER BAR LLC, SONO WOOD-
FIRED LLC, and JOHN D. MCLEAN,
individually,

Third-Party Plaintiff,

v.

PAYCOR, INC.

Third-Party Defendant

No. 12 CV 03501

Judge Feinerman

Magistrate Judge Kim

GOOD EATS RESTAURANT GROUP, URBAN BURGER BAR LLC,
SONO WOOD-FIRED LLC, AND JOHN D. MCLEAN'S
THIRD-PARTY COMPLAINT FOR CONTRIBUTION

Defendants, GOOD EATS RESTAURANT GROUP, URBAN BURGER BAR LLC,
SONO WOOD-FIRED LLC, and JOHN D. MCLEAN, individually, by and through Mark A.
LaRose, Brian R. Kusper, and Andrew T. Sperry, and for its Third-Party Complaint for
Contribution against the Third-Party Defendant PAYCOR, INC. state as follows:

1. On May 10, 2012, Plaintiffs Amanda Buchanan and Brandi Sanderson filed their Amended Class Action Complaint against Defendants Good Eats Restaurant Group, Urban Burger Bar LLC, Sono Wood-Fired LLC, and John D. McLean, individually, seeking recovery and relief for alleged violations of the Fair Labor Standards Act (“FLSA”) and the Illinois Minimum Wage Law (“IMWL”). Buchanan and Sanderson alleged that Defendants failed to pay applicable minimum wages due to Plaintiffs and members of the alleged Plaintiff Class for all time worked.

2. On June 19, 2012, Defendants filed their Answer thereto and denied all material allegations in the Amended Complaint. Defendants continue to deny such allegations.

3. This Third-Party Complaint is being brought pursuant to Federal Rule of Civil Procedure 14(a) and seeks contribution from Third-Party Defendant PAYCOR, INC. (“Paycor”).

4. This Court has supplemental jurisdiction over Defendants’/Third-Party Plaintiffs’ claims against Paycor pursuant to 28 U.S.C. § 1367.

5. Paycor is a Delaware corporation that provided payroll and payroll related services to Defendants/Third-Party Plaintiffs. Paycor provided this service to Defendants/Third-Party Plaintiffs at all times material to the events at issue in Plaintiffs’ Amended Complaint.

6. Paycor was aware of state and federal minimum wage law requirements under the FLSA and IMWL.

7. Good Eats Restaurant Group, Urban Burger Bar LLC, and Sono Wood-Fired LLC (“Company Defendants/Third-Party Plaintiffs”) paid Paycor on a bi-weekly basis in the amount of \$152.84 in exchange for Paycor’s performance of all payroll and payroll related services.

8. Paycor had a duty to Company Defendants/Third-Party Plaintiffs to issue wages to their employees in accordance with state and federal minimum wage law requirements.

9. For a period of time material to the events at issue in Plaintiffs' Complaint, Paycor breached its duty to Company Defendants/Third-Party Plaintiffs by issuing paychecks to some of Company Defendants'/Third-Party Plaintiffs' tipped employees at a wage rate of \$4.25 per hour worked.

10. To the extent that the Court finds that Company Defendants/Third-Party Plaintiffs are in violation of the FLSA or IMWL, any damages or injuries suffered by Plaintiffs or any class of persons are the direct and proximate result of Paycor's breach of its duty to Company Defendants/Third-Party Plaintiffs.

11. If it is found that the Plaintiffs and/or any class of persons is entitled to recover against Company Defendants/Third-Party Plaintiffs, then Company Defendants/Third-Party Plaintiffs are entitled to contribution from Paycor in the amount equal to Paycor's proportionate share of liability pursuant to Federal Rule of Civil Procedure 14(a).

12. In Defendants'/Third-Party Plaintiffs' Answer to Plaintiffs' Amended Complaint, Defendants/Third-Party Plaintiffs have denied all allegations that Defendant/Third-Party Plaintiff John McLean was an "employer" to Plaintiffs or any class of persons as defined by the FLSA or IMWL, and Defendants/Third-Party Plaintiffs continue to deny that Defendant/Third-Party Plaintiff John McLean is individually liable under either statute.

13. To the extent that this Court finds that Defendant/Third-Party Plaintiff John McLean is an "employer" under the FLSA and IMWL, Paycor had a duty to Defendant/Third-Party Plaintiff John McLean to issue wages to his employees in accordance with state and federal minimum wage law requirements.

14. To the extent that this Court finds that Defendant/Third-Party Plaintiff John McLean is an “employer” under the FLSA and IMWL, Paycor breached its duty to Defendant/Third-Party Plaintiff John McLean by issuing paychecks to some of his tipped employees at a wage rate of \$4.25 per hour worked for a period of time material to the events at issue in Plaintiffs’ Complaint.

15. To the extent that this Court finds that Defendant/Third-Party Plaintiff John McLean is an “employer” under the FLSA and IMWL and to the extent that the Court finds Defendant/Third-Party Plaintiff John McLean in violation of the FLSA or IMWL, any damages or injuries suffered by Plaintiffs or any class of persons are the direct and proximate result of Paycor’s breach of its duty to Defendant/Third-Party Plaintiff John McLean.

16. If it is found that the Plaintiffs and/or any class of persons is entitled to recover against Defendant/Third-Party Plaintiff John McLean individually, then Defendant/Third-Party Plaintiff John McLean is entitled to contribution from Paycor in the amount equal to Paycor’s proportionate share of liability pursuant to Federal Rule of Civil Procedure 14(a).

Wherefore, Defendants/Third-Party Plaintiffs GOOD EATS RESTAURANT GROUP, URBAN BURGER BAR LLC, SONO WOOD-FIRED LLC, and JOHN D. MCLEAN, individually, pray that if they are found liable to the Plaintiffs or any class of persons for any damages pursuant to Plaintiffs’ Amended Complaint, then Defendants/Third-Party Plaintiffs are entitled to contribution from Third-Party Defendant PAYCOR, INC. in an amount equal to Paycor’s *pro rata* share of liability.

Dated: July 3, 2012

Respectfully submitted,

Mark A. LaRose
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GOOD EATS RESTAURANT GROUP,
URBAN BURGER BAR LLC, SONO
WOOD-FIRED LLC, and JOHN D.
MCLEAN, individually

By: /s/ Mark A. LaRose
Attorney for Defendants/Third-Party
Plaintiffs

CERTIFICATE OF SERVICE

I, Mark A. LaRose, an attorney, certify that I caused the following document

THIRD-PARTY COMPLAINT FOR CONTRIBUTION

to be served upon the attorneys listed below by electronically filing the same this 3rd day of **July, 2012**.

TO: Mr. Marc J. Siegel, #06238100
Mr. Bradley Manewith, #06280535
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/s/ Mark A. LaRose

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